

Funding

USE OF IDEA PART B FORMULA AMOUNTS IN GENERAL

February 1, 2021

Model operating procedures created by



Student Solutions

and

**Thompson
& Horton** LLP
ATTORNEYS | COUNSELORS

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2021 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.



CONTENTS

Use of IDEA Part B Formula Amounts in General 1

 What is Required 1

 Methods and Payments 1

 Private Schools 1

 Use of Public Benefits and Insurance..... 2

 Use of IDEA-B Funds..... 2

 Additional Procedures..... 3

 Use of Funds 3

 Evidence of Implementation 3

 Resources..... 3

CITATIONS 4



Use of IDEA Part B Formula Amounts in General

What is Required

Part B of the IDEA (“IDEA-B”) authorizes expenditures to help the District ensure that students with disabilities, including students ages 3 through 21, have access to a FAPE to meet each student’s unique needs.

Methods and Payments

The TEA may use whatever state, local, federal, and private sources of support are available to the state, including the use of joint agreements between agencies involved, to provide a FAPE for students with disabilities. The TEA will ensure that there is no delay in implementing a student’s IEP, including any case in which the payment source for providing or paying for special education and related services to the student is being determined. Nothing in the IDEA-B relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a student with a disability.

The District must use all IDEA-B funds it receives for the following purposes:

- To supplement state, local, and other federal funds—and to not supplant such funds;
- To comply with excess costs requirements, see [EXCESS COSTS];
- To comply with general and fiscal guidelines, see [GENERAL AND FISCAL GUIDELINES]; and
- To comply with maintenance of effort requirements, see [MAINTENANCE OF EFFORT].

Private Schools

To provide services for parentally-placed private school students with disabilities, the District must use IDEA-B funds in a manner that is consistent with proportionate share funding requirements for students with disabilities parentally-placed in private schools. See [PROPORTIONATE SHARE FUNDING FOR CHILDREN WITH DISABILITIES PARENTALLY-PLACED IN PRIVATE SCHOOLS] and [CHILDREN IN PRIVATE SCHOOLS]. The District may use IDEA-B funds to make District Special Education Personnel available for students with disabilities parentally-placed in private schools. See [SPECIAL EDUCATION AND RELATED SERVICE PERSONNEL].



Use of Public Benefits and Insurance

Prior to accessing the student's or the parent's public benefits or insurance for the first time, the District must provide the parent written notice in the parent's native language or other mode of communication and obtain written consent from the parent. Annually thereafter, the District must provide the parent written notice that includes the required elements. See [CONSENT TO ACCESS PUBLIC BENEFITS]. The District must notify the parent that the parent's withdrawal or consent or refusal to provide consent to disclose personally identifiable information to Medicaid does not relieve the District of its responsibility to ensure that it provided all required services to the student at no cost to the parent.

If and when consent is obtained, the District may use state Medicaid or other public benefits or insurance programs in which a student participates to provide or pay for IDEA-B services. However, the District may not:

- Require the parent to sign up for or enroll in public benefits or insurance programs for the student to receive FAPE;
- Require the parent to incur an out-of-pocket expense, such as the payment of a deductible or co-pay amount incurred in filing a claim for services;
- Use a student's benefits under a public benefits or insurance program if that use would:
 - Decrease available lifetime coverage or any other insured benefit;
 - Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the student outside of the time the student is in school;
 - Increase premiums or lead to the discontinuation of benefits or insurance; or
 - Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

To be able to use the public benefits or insurance, the District may pay any cost the parent would be required to pay, including a payment of a deductible or co-pay amount incurred in filing a claim for services provided under the IDEA.

Use of IDEA-B Funds



The District may use IDEA-B funds to pay for a specified service required under the IDEA to ensure a student receives FAPE if the District cannot obtain parental consent to use the parent's private insurance or public benefits or insurance and the parent would incur a cost for a specified service required under the IDEA. The District may also use IDEA-B funds to pay the cost that the parent otherwise would have to pay to use the parent's benefits or insurance, such as the deductible or co-pay amounts, if the parent would incur a cost where the parent would consent to use private insurance or public benefits to pay for services required to ensure the student with a disability receives a FAPE if the parent could avoid financial cost.

Additional Procedures

Use of Funds

The District must only use IDEA-B funds in accordance with applicable federal regulations. If the TEA, after reasonable notice and an opportunity for a hearing, determines that the District has failed to comply with applicable federal requirements related to funding, the TEA will reduce or cease further payments to the District until it is satisfied that the District has complied with the requirements.

Evidence of Implementation

- Compliance with General and Fiscal Guidelines
- Compliance with Excess Costs Requirements
- Compliance with Maintenance of Effort Requirements
- ARD/IEP
- Signed Parent Consent to Access Public Benefits (Initial Notification)
- Use of Funds for Students with Disabilities Parentally-Placed in Private Schools
- Annual Notification Requesting Access to Private Benefits and Insurance Form

Resources

[The Legal Framework for the Child-Centered Special Education Process: Use of IDEA Part B Formula Amounts in General](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(General Allowable Activities and Use of Funds, pg. 24\) - Texas Education Agency](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(Unallowable Activities and Use of Funds, pg. 27\) - Texas Education Agency](#)

Use of IDEA Part B Formula Amounts in General

Customized by



[IDEA Part B Issue Brief: Uses of Special Education Funds - ASHA](#)

CITATIONS

34 CFR 300.103(a)–(c), 300.154, 300.202